

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Edward Tsigel	Team: Squad #4	CCRB Case #: 201808544	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 10/12/2018 8:00 PM	Location of Incident: § 87(2)(b) ; 44th Precinct stationhouse	Precinct: 44	18 Mo. SOL 4/12/2020	EO SOL 11/27/2020	
Date/Time CV Reported Mon, 10/15/2018 2:59 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 10/15/2018 2:59 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. DTS Wilfredo Benitez	5619	947459	044 PCT
2. SSA Kevin Grayson	02293	921393	044 PCT
3. An officer			044 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Maximo Gomez	06426	958643	044 PCT
2. DT3 Donna Farrell	5592	930126	BXROBSQ

Officer(s)	Allegation	Investigator Recommendation
A.DTS Wilfredo Benitez	Abuse: Detective Wilfredo Benitez seized § 87(2)(b) s property.	§ 87(2)(b)
B.DTS Wilfredo Benitez	Abuse: Detective Wilfredo Benitez searched § 87(2)(b) s vehicle.	§ 87(2)(b)
C.SSA Kevin Grayson	Abuse: Sergeant Kevin Grayson did not obtain medical treatment for § 87(2)(b)	§ 87(2)(b)
D. An officer	Abuse: An officer damaged § 87(2)(b) s property.	§ 87(2)(b)
§ 87(4-b), § 87(2)(g)	§ 87(2)(b)	§ 87(2)(b)
§ 87(4-b), § 87(2)(g)	§ 87(2)(b)	§ 87(2)(b)

Case Summary

On October 15, 2018, § 87(2)(b) called the CCRB and filed this complaint.

On October 12, 2018, at approximately 8:00 pm, in front of § 87(2)(b) in the Bronx, Sergeant Kevin Grayson, Detective Wilfredo Benitez, and Police Officer Maximo Gomez, of the 44th Precinct, approached § 87(2)(b) for playing loud music from his car. Det. Benitez wanted to issue § 87(2)(b) a summons and § 87(2)(b) refused to provide his identification. Det. Benitez handcuffed § 87(2)(b) to take him to the 44th Precinct stationhouse and properly identify him. Det. Benitez ordered the seizure of § 87(2)(b)'s vehicle and requested for PO Gomez to drive it to the 44th Precinct stationhouse (**Allegation A – Abuse of Authority – § 87(2)(g)**). Det. Benitez searched § 87(2)(b)'s vehicle at the stationhouse (**Allegation B – Abuse of Authority – § 87(2)(g)**). Sgt. Grayson failed to obtain medical treatment for § 87(2)(b) as per his request, while transporting him to the stationhouse (**Allegation C – Abuse of Authority – § 87(2)(g)**). § 87(2)(b) alleged that an officer damaged his phone and his vehicle (**Allegation D – Abuse of Authority – § 87(2)(g)**).

§ 87(4-b), § 87(2)(g)

§ 87(2)(b) was issued a summons for § 87(2)(b) as a result of this incident. The CCRB received Body Worn Camera footage of this incident (BR 06-10).

Findings and Recommendations

Allegation (A) Abuse of Authority: Detective Wilfredo Benitez seized § 87(2)(b)'s property.

Allegation (B) Abuse of Authority: Detective Wilfredo Benitez searched § 87(2)(b)'s vehicle.

The investigation was unable to obtain a verified statement from § 87(2)(b) (BR 01).

From 0:00 to 1:40 of Det. Benitez's BWC (1/3) (BR 06), Det. Benitez is standing in front of § 87(2)(b)'s car and says, "You're blasting music, you're getting a summons." Det. Benitez approaches § 87(2)(b) and ask for his identification six times. § 87(2)(b) does not provide his identification to Det. Benitez. Det. Benitez handcuffs § 87(2)(b) and escorts him to a marked police van. Between 1:13 and 1:18, it is seen that § 87(2)(b)'s vehicle is not legally parked, and that its hazard lights are on. There is no mention of or conversation about marijuana between any officers throughout any of the BWC footage from the incident.

Det. Benitez's (BR 03) stated that he initially approached a group of individuals who were congregated around a vehicle that was playing loud music. § 87(2)(b) confirmed that he was the owner of the vehicle, after which, Det. Benitez told § 87(2)(b) that he was going to issue him a summons for disorderly conduct for playing music too loudly. Det. Benitez decided to bring § 87(2)(b) to the 44th Precinct stationhouse to verify his identity and issue the summons because § 87(2)(b) refused to provide his identification at the location.

Det. Benitez (BR 03) and PO Gomez (BR 04) both stated that when they were standing near § 87(2)(b)'s vehicle, it smelled of burnt marijuana. Both officers stated that Det. Benitez seized § 87(2)(b)'s vehicle as investigatory evidence, and that Det. Benitez asked PO Gomez to drive it to the stationhouse. Det. Benitez and PO Gomez searched the entirety of § 87(2)(b)'s vehicle at the stationhouse. Det. Benitez (BR 03) stated that he did not prepare a property voucher for § 87(2)(b)'s vehicle. The investigation confirmed that there were no property vouchers prepared for § 87(2)(b)'s vehicle (BR 18). Sgt. Grayson (BR 05) stated that he supervised the search of § 87(2)(b)'s vehicle. No marijuana or any other contraband was found in the car.

The smell of marijuana is sufficient to provide officers with probable cause to search an automobile and its occupants, People v. Chestnut, 43 A.D 2d. 260 (1974) (BR 11). Patrol Guide Procedure 218-19 (BR 12) states that when officers seize property as investigatory evidence, they must prepare a Property Clerk Invoice.

§ 87(2)(g)

§ 87(2)(g)

Allegation (C) Abuse of Authority: Sergeant Kevin Grayson did not obtain medical treatment for § 87(2)(b)

§ 87(2)(b) was handcuffed by Det. Benitez and put into a police van to be transported to the stationhouse and to be identified. From 7:35 to 8:55 of Det. Benitez's BWC (1/3) (BR 06), while being transported to the stationhouse, § 87(2)(b) states that he needs to go to the hospital, that he needs medical attention, that he needs to take his seizure pill, and that he is nauseous multiple times. Det. Benitez tells § 87(2)(b) that he will take § 87(2)(b) to the hospital, however, immediately after, another voice in the van says, "You're not going to the hospital, you're going to get a summons."

Sgt. Grayson initially stated that he did not remember hearing § 87(2)(b) make statements requesting medical attention (BR 05). Sgt. Grayson was shown Det. Benitez's BWC (1/3) (BR 06) and he identified himself as the voice in the van that told § 87(2)(b) that he wasn't going to the hospital. Sgt. Grayson confirmed that he made this statement. When asked why he made the statement, Sgt. Grayson stated that each time § 87(2)(b) requested to get medical attention, Sgt. Grayson told him that he was going to get a summons issued at the stationhouse first, and then if § 87(2)(b) wanted, Sgt. Grayson would call the ambulance for him. At the stationhouse § 87(2)(b) was issued a summons, after which Sgt. Grayson asked § 87(2)(b) if he wanted an ambulance called. § 87(2)(b) told Sgt. Grayson that he did not want the ambulance called and proceeded to leave the stationhouse. Sgt. Grayson did not request an ambulance to the stationhouse and § 87(2)(b) was never given medical treatment during this incident.

NYPD Patrol Guide Procedure 210-04 (BR 13) states that when a prisoner in custody requires medical treatment, an ambulance must be called to remove the prisoner to the hospital directly from the place of arrest, if necessary, or at some time during the arresting process.

§ 87(2)(g)

Allegation (D) Abuse of Authority: An officer damaged § 87(2)(b)'s property.

In § 87(2)(b)'s phone statement, he claimed that when he was released from custody, his phone and his car were damaged (BR 02). He stated that his phone's camera was not working when he received it after his arrest. He also stated that his car's trunk was locked shut and his side mirror frames were cracked. § 87(2)(b) stated that he did not see which officers damaged his phone and his car.

At no point throughout any of the BWC footage obtained, is an officer seen damaging § 87(2)(b)'s phone or car. No damage is seen on either § 87(2)(b)'s phone or car throughout any of the BWC footage (BR 06-10).

Sgt. Grayson (BR 05), Det. Benitez (BR 03), and PO Gomez (BR 04) all denied damaging § 87(2)(b)'s phone or car and they all stated that they did not observe any other officer causing damage to § 87(2)(b)'s property.

§ 87(2)(g)

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- Sergeant Kevin Grayson has been a member of service for twenty-one years and has been a subject in ten CCRB complaints and nineteen allegations, of which two were substantiated.
 - 201901152 involved one substantiated allegation of a stop and one substantiated allegation of a strip search against Sgt. Grayson. The board recommended charges and the NYPD has not yet imposed discipline.
- Detective Wilfredo Benitez has been a member of service for eleven years and has been a subject in fifteen CCRB complaints and thirty-four allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- As of January 2, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to this complaint (BR 16).

- § 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] (BR 17).

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date